

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE.

1883.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 18, 1840, and March 16, 1842.

AUGUSTA :
SPRAGUE & SON, PRINTERS TO THE STATE.
1883.

PUBLIC LAWS
OF THE
STATE OF MAINE.
1883.

SECT. 5. The judges of the courts of insolvency shall prepare and file in the office of the secretary of state annually, on the first Monday of January, a report of all the cases in insolvency within their respective counties, showing the names of the insolvents, the date of the filing of the petition, the date of the discharge, the amount and average rate of dividends declared, inclusive of composition cases, and the amount of fees received or earned by them and the registers of said court.

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Judges shall report annually to secretary of state, all cases of insolvency, etc.

SECT. 6. All acts and parts of acts inconsistent with this act are hereby repealed.

Inconsistent acts repealed.

SECT. 7. This act shall take effect when approved.

Approved March 14, 1883.

Chapter 215.

An Act concerning trade-marks and their registration.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. Any person entitled to the exclusive use of any lawful trade-mark, or who intends to adopt and use any lawful trade-mark, not previously adopted or used by another, may file for record in the office of the secretary of this state, a certificate, setting forth his name, residence and place of business; the class of merchandise and the particular description of goods comprised in such class to which such trade-mark has been, or is to be appropriated; a description of such trade mark, and of the mode in which it is to be applied and used; the date when such trade-mark was first used or adopted; that he has a right to the use of it; and that no other person, firm or corporation has the right to such use, either in the identical form, or having such near resemblance thereto as might be calculated to deceive. A fac-simile of such trade-mark shall be incorporated in or annexed to said certificate, and a duplicate shall be filed therewith, to be pasted or bound into the record book, if practicable. Such certificate shall be signed by the person in whose behalf it is filed, or by his agent, and the person so signing it, shall make

Persons entitled to use trade-mark may file with secretary of state, certificate, description, etc., thereof.

Fac-simile to be annexed to certificate.

Certificate to be sworn to.

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oath or affirm that all the statements therein contained are true, to the best of his knowledge and belief.

Penalty for swearing falsely.

SECT. 2. Any person who shall wilfully swear or affirm falsely in any such affirmation or affidavit, as to any matter therein required to be set forth, shall be guilty of perjury, and shall pay treble damages to every party injured thereby.

Secretary of state may decline to record certificate if he believes it untrue.

SECT. 3. If the secretary of state has reason to apprehend, on the filing of any such certificate, that the statements therein contained, or any of them, are untrue, he may decline to record the same, unless the party filing it shall obtain a writ of mandamus to compel such recording. Such writ may be granted, but without costs to the secretary, by any proper court, on due proof that all the statements in such certificate be true, but no final hearing on the application therefor, shall be had until such notice thereof as the said court may order, has been advertised in one or more newspapers published in the county where the party filing said certificate resides; and any persons who desire, may appear and intervene as parties defendant, and oppose the granting of such writ, and shall be liable to judgment for any costs occasioned by such intervention.

—may be compelled to, by mandamus.

Proceedings.

Exclusive right to use trade mark, guaranteed.

SECT. 4. Every party having the lawful right to make and file such certificate and affidavit, upon the recording of the same in said office, shall become entitled to the exclusive use of the trade-mark therein described, for so long as he or his assigns shall continue to be engaged in the manufacture or sale of the merchandise or description of goods to which it is appropriated; and such right shall be assignable in writing; but all assignments thereof shall be good only against the assignor and his personal representatives, until lodged for record in said office.

Right assignable.

Certificates and assignments to be recorded by secretary of state.

SECT. 5. The secretary of state shall retain all such certificates on file, and cause the same and all assignments of trade-mark rights to be recorded at length in his office, and shall be entitled to a fee of three dollars for each certificate, and one dollar for each assignment so filed and recorded.

—fees.

Copies of record to be evidence of right to use trade-mark.

Copies of the record of any such certificate, attested by him under the seal of the state, shall be prima facie evidence of the right of the party filing such certificate to the exclusive use of the trade-mark therein described for the periods limited to section four.

SECT. 6. Any person who shall reproduce, copy, counterfeit or imitate any such recorded trade-mark, knowing the same to have been recorded, and affix such reproduction, copy, counterfeit or imitation, to goods resembling or designed to resemble those to which trade-mark is so appropriated, shall pay to the owner of such trade-mark, double damages, and also such sum, not exceeding five hundred dollars, as the court before which the action is brought, may order to be added to the damages found by the verdict or judgment.

Penalty for counterfeiting.

SECT. 7. This act shall not abridge any rights to any existing trade-marks, whether the same shall be hereafter recorded or not, nor any remedies or rights of action otherwise or heretofore existing in favor of owners of trade-marks.

Act not to abridge rights to existing trade-marks.

SECT. 8. Every person who fraudulently and with intent to deceive, affixes any trade-mark recorded under this act, or any such imitation thereof as is calculated to deceive, to any goods, receptacle or package similar in descriptive properties to those to which such trade-mark is appropriated; or who, fraudulently and with intent to deceive, places in any receptacle or package to which is lawfully affixed a recorded trade-mark, goods other than those which said trade-mark is designed and appropriated to protect; or who, fraudulently and with intent to deceive, deals in or keeps for sale any goods with a trade-mark fraudulently affixed, as above described in this section; or any goods contained in any package or receptacle having a lawful trade-mark, but not being such goods as said trade-mark was designed and appropriated to protect, shall be fined not more than five hundred dollars, or imprisoned not more than thirty days, or both.

Penalty for fraudulent use of trade-marks.

SECT. 9. The word person in this act includes any person or persons, firm or corporation.

Application of terms.